

MEETING MINUTES CITY OF MILPITAS

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, April 18, 2006
Time: 6:00 PM (Closed Session)
7:00 PM (Public Business)
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd.

ROLL CALL

Mayor Esteves called the meeting to order at 6:00 PM, and welcomed the large audience in the Council Chambers.

PRESENT: Mayor Esteves, Vice Mayor Gomez, Councilmembers Giordano, Livengood and Polanski.

ABSENT: None

CLOSED SESSION

Mayor Esteves publicly stated the Council would convene in Closed Session to discuss the following three issues:

(1) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING

(Pursuant to California Government Code Section 54957.6)

City Negotiators: Art Hartinger, Carmen Valdez

Employee Organization: International Association of Firefighters (IAFF)

Under Negotiation: Wages, Hours, Benefits, Working Conditions

(2) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Pursuant to California Government Code Section 54956.9(a))

City of Milpitas v. Turner Construction et al., Santa Clara County Superior Court

Case No. 103CV815946 Consolidated with Case No. 103CV008400

(3) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Pursuant to California Government Code Section 54956.9(a))

City of Milpitas v. City of San Jose, Case No. CV046013, Santa Clara County Superior Court

The City Council reconvened in Open Session at 7:00 PM with Mayor Esteves presiding and all Councilmembers present.

CLOSED SESSION ANNOUNCEMENT

NONE

PLEDGE

Boy Scouts troop No. 92 lead all in the pledge of allegiance after the presentation of colors.

INVOCATION

Mayor Esteves offered a prayer.

MINUTES

MOTION: to approve minutes of the April 4, 2006 City Council meeting, as submitted.

Motion/Second: Vice Mayor Gomez /Councilmember Giordano

Motion carried by a vote of:

AYES: 5

NOES: 0

SCHEDULE OF MEETINGS

MOTION: to approve the Schedule of Meetings, as submitted.

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried by a vote of:

AYES: 5

NOES: 0

PRESENTATIONS

Proclamations:

Arbor Day was proclaimed for April 29, 2006, and accepted by the Citizens Advisory Commission Chairman Abelardo and Vice Chair Chris Lee.

National Volunteer Month was proclaimed for the month of April 2006, and accepted by Mr. Stephen Quigley, the Executive Director of the Volunteer Center of Silicon Valley in San Jose.

Eagle Scout Brian Pham was not available to receive the Mayor's commendation at this meeting.

CITIZENS FORUM

Stephan Smitz, a resident since 1997, and student **Katie Williams**, spoke in support of Rainbow Theatre. Mayor Esteves directed them to come back to the microphone when the Council discussed Item No. 4.

Bill Reisinger, would like to thank Council for recognition given to Commissioners, but he could not. It was not done properly to recognize the work of the Commissioners, and urged Council to host even a potluck dinner of some kind next year. Give some consideration to the event.

Anita Gangal, 15 year resident, reminded those gathered that this day was the 100th anniversary of the great earthquake in San Francisco. She requested that Milpitas have an Earthquake Preparedness Day for all residents.

Frank DeSmidt, announced a Chamber of Commerce mixer tomorrow at Bleu Ginger, and on Friday a "Good Morning Milpitas" breakfast featuring a Judge as speaker, at the Embassy Suites hotel. For the 2006 Business Person of the Year, the Chamber was seeking nominations, and there were openings on the Chamber Board of Directors.

ANNOUNCEMENTS

The Council's Facilities Naming subcommittee was rescheduled in May, per the City Manager.

Councilmember Livengood reminded everyone about the ceremony next Tuesday at 1:00 PM, when the re-naming of the Milpitas Senior Center for former colleague Barbara Lee will take place. Lunch was at 12:00 noon, and the celebration for Ms. Lee following at 1:00.

Councilmember Polanski offered thanks to all City Commissioners for their service, and to Mayor Esteves for his "State of the City" speech last Thursday evening.

Mayor Esteves thanked those who attended his State of the City speech. He also stated there was scheduled a special City Council meeting on Tuesday, June 13 for AB1234 state-mandated training, from 6:00 – 8:00 PM in Council Chambers. The Planning Commission members would be invited to attend the required training also.

ANNOUNCEMENT OF CONFLICT OF INTEREST

On Item RA 9, Mayor Esteves stated he had a conflict, due to property ownership in the area, and would abstain from voting on that item.

APPROVAL OF AGENDA

MOTION: to approve the agenda, as submitted.

Motion/Second: Councilmember Giordano/Vice Mayor Gomez

Motion carried by a vote of:

AYES: 5

NOES: 0

CONSENT CALENDAR

MOTION: to approve the Consent Calendar, as amended:

Remove Item No. 5 from the Consent Calendar, Items No. 6 and 11 were added to Consent, Item No. RA10 was removed from RDA Consent Calendar.

Motion/Second: Councilmember Giordano/Vice Mayor Gomez

Motion carried by a vote of:

AYES: 5

NOES: 0

*** 6. Donation to Tax
Preparation Assistance Program**

Approved Mayor's recommendation of a donation in the amount \$249.00 to the Volunteer Income Tax Assistance program at the Milpitas Library, with the funds from the City Council's Community Promotions budget.

*** 7. Mayor's Recommendations
for Appointments to City
Commissions**

Sister City Commission:

Appointed current Alternate #1 Massoud Arefi to a vacant seat that expires in September 2006.

Appointed current Alternate #2 Beverly McCarter as Alternate #1, to a term that expires in September 2006.

Appointed Oliver Wan (currently CAC Alternate #3) as Alternate #2, to a two-year term that expires in September 2007.

Senior Advisory Commission:

Appointed Bernice Wrinkle as Alternate #2, to a term that expires in December 2006.

*** 9. Change One Section of
Meeting Agendas**

Approved permanent change on all City meeting agendas to note "Public Forum" for the time when people may comment at public meetings.

*** 11. Agreement with MetroFi
Inc., for Wireless Service**

Authorized the City Manager to execute an agreement with MetroFi Inc., to provide wireless service and for the use of the public right-of-way, subject to approval as to form by the City Attorney.

*** 12. Request For Proposals for
Preparation of State-Mandated
General Plan Housing Element**

Authorized staff to issue the Request for Proposal for preparation of the State Mandated General Plan Housing Element, including the Housing Marketing Study.

*** 13. Refund to Mr. Dem Nitifan**

Approved issuance of a refund to Mr. Dem Nitifan of \$342 for cost of the rental of the Community Center Auditorium on March 25, 2006, for the Knights of Columbus "Citizen of the Year" Award event.

*** 15. Resolution granting Initial
Acceptance: Kennedy Dr. sub-
division**

Adopted Resolution No. 7583 granting initial acceptance of Project No. 3159, subject to a one-year warranty period and reduction of the faithful performance bond to \$40,000.

*** 17. Award the Contract for
Waterline Alterations**

Awarded bid to San Jose Water Co. to provide and install approximately 50 ft. of new waterline at Sunnyhills turn out station, for not to exceed amount of \$27,289, subject to approval by the City Attorney.

*** 18. Purchase of Diesel
Exhaust Extraction System for
the Fire Department**

1. Authorized the City Manager to execute a contract with Air Exchange, Inc. for the purchase and installation of Plymovent Diesel Exhaust Extraction Systems for Fire Stations No. 2, No. 3, and No. 4 for the not to exceed amount of \$108,657.03, subject to approval as to form by the City Attorney

2. Approved budget transfer of \$86,926 from grant revenues to complete purchase of the Plymovent Diesel Exhaust Extraction System, approved by Council on March 21, 2006.

*** 19.** Consulting Services Agreement for Construction Material Testing Services with Consolidated Engineering

Authorized the City Manager to execute a consulting services agreement with Consolidated Engineering Laboratories, in an amount not to exceed \$200,000, subject to approval as to form by the City Attorney.

*** 20.** Two Agreements with Santa Clara County Regarding Solid Waste Programs

Authorized the City Manager to approve two agreements with Santa Clara County, subject to approval as to form by the City Attorney.

The first agreement, entitled the Agency Agreement for Countywide AB939 Implementation Fee, concerns the collection of landfill fees. The second agreement, entitled the Agency Agreement for Countywide Household Hazardous Waste Collection Program, concerns the collection of household hazardous waste.

*** 21.** Agreement with West Valley Sanitation District, Approve Budget Appropriation and Authorize the Execution of Amendment to the Wastewater Master Agreement with Cities of San Jose and Santa Clara

1. Authorized the City Manager to execute the One Million Gallons Per Day Capacity Purchase Agreement with West Valley Sanitation District, subject as to form by the City Attorney.
2. Approved a budget appropriation in the amount of \$150,000 from Treatment Plant Fee fund.
3. Authorized the City Manager to execute the Third Amendment to the Master Wastewater Treatment Plant Agreement with the Cities of San Jose and Santa Clara, subject to approval as to form by the City Attorney.

PUBLIC HEARINGS

1. Major Tentative Map No. MA2004-3 and Zone Change No. ZC2004-1 for a five (5)-lot subdivision and rezone

This item was removed from the agenda, to be heard at a later date.

2. Community Development Block Grant Funding for FY 2006-07 and Adopt One-Year Action Plan

Planning Staff Felix Reliford and Gloria Anaya presented (see agenda report for details) this year's recommendations to the City Council from the Community Advisory Commission, on proposed Community Development Block Grants funding. CDBG amount from the federal government for Milpitas for the next fiscal year was approximately \$600,963 (less than last year).

Earlier in the year, the Council established funding priorities and action plan for one year for the CDBG money. For the new funding cycle, 21 applications in total were received: 17 for public services and 4 for non-public services. The applications included the \$150,000 for the Terrace Gardens new roof.

This evening, Council was asked to approve a one-year Action Plan as required by HUD.

Councilmember Giordano asked about Senior Housing Solutions. It had requested for \$349,000 but the recommendation was only for \$150,000. She got a letter of request from them for more. Mr. Reliford explained that there was no more money to disburse.

Mayor Esteves asked, would there be a need for more money for the re-roofing project? Mr. Reliford replied hopefully not, that the Terrace Gardens Board has planned carefully for that project.

Councilmember Polanski inquired about the public services funds. She commented on the lowered amount of CDBG funding, and the difficulty of the cuts over the last year.

Mayor Esteves opened the public hearing for comments.

Public Speakers:

Bob Campbell, of Senior Housing Solutions, explained the need for additional funds for his organization, beyond the \$150,000 recommended by staff. He explained the Milpitas

Suzanne Stone, Milpitas resident, spoke in support of Senior Housing Solutions and how great the group living arrangements that were created. It is a great way for seniors to have a real community, and hoped the City Council would support funding for it.

Desa Bubunovich, director of Support Network for Battered Women, said her program was denied funding, in the staff recommendations. She asked for support for women in crisis, at a confidential location in Milpitas. She did not agree that SNBW was a duplicative program, but rather there was not enough support in the community, and asked for the City Council to fund \$5,000.

Ann Blackstone, a state-certified long-term care ombudsman, thanked the Council for its support for long term care via one nursing home and six assisted living centers. She served as a residents' advocate. She also thanked City staff for their continued support by its recommendation to Council for continued funding to Catholic Charities, Long Term Care Ombudsman Program.

Georgia Bacil, a lawyer for Senior Adults Legal Assistance, provided services by appointment at the Milpitas Senior Center. The City's CDBG funding has allowed the number of senior residents helped to increase over the last year. SALA attorneys helped them with survival issues.

Motion carried unanimously by a vote of:

	AYES: 5
	NOES: 0

Mr. Reliford further explained fair housing issues and mandatory HUD regulations, with regard to program administration.

Mayor Esteves reviewed the Catholic Charities Shared Housing program, with the staff recommendation for \$0, even though the group does such a good job. Staff reviewed how much the City had done toward provision of housing for the low-income residents over the last five years, a great commitment. This was the first year with a recommendation of no funding for this group, solely due to City efforts in this area.

Motion/Second: Mayor Esteves/Councilmember Polanski

City Clerk Lavelle explained that Rotary Club was not prepared to go forward on the Entertainment Event Permit, due to challenges with the location selected (Mervyn's). Rotary Club did plan to pursue an alternate location in Milpitas, and would return to City staff if an agreement was reached. Mr. Todd Flesner of the Rotary Club explained fundraising efforts by the Club and the general beneficial purpose of the annual carnival.

Motion carried by a vote of: AYES: 5
NOES: 0

Finance Director Emma Karlen explained about the outreach meetings held at four Milpitas schools last Monday, as directed by the City Council at its meeting of March 14. She displayed information on screen, with results displayed of the residents green dots-voting totals on the five least-favored programs out of 24 listed.

City Manager Charles Lawson stated that City residents would not like to cut any programs close to the hearts of those who attended. Recreation services was nearly all programs, so he asked staff to go back and look at all programs in all departments and divisions to come up with the list of programs for residents to prioritize.

Mayor Esteves felt that questions asked at the Russell School were valid, and wanted staff response to those. Mr. Lawson replied on the issue of the cost of the listed programs: some of them cost over \$400,000 and some were much smaller. He wanted to present to the community the list of priorities and what's important, not the dollar amounts, as requested by City Council. With money attached to each program, it could bias per person voting. Mayor Esteves asked if we can publish the cost of these items? The Mayor asked staff explicitly to do that, and he wanted a tally, of all the others not listed tonight (more than the top five). Additionally, he asked about how many people voted for the "Excessive salaries" at one site.

Councilmember Polanski queried staff about postcards mailed and flyers distributed to schoolchildren. She attended the meeting Rancho, and felt that citizens did not get a chance to speak up. There was not an opportunity to ask questions or to understand the process more clearly. 24 programs were on the list, and she expected a document as to how each was voted upon, in total. She requested the voting for all programs in total, from staff. Additionally, she reported that citizens asked, what about fees for cost recovery for some of the programs, such as sports? Private enterprise, in the past, had helped to support and maybe that was a solution. She wished more people had participated.

Councilmember Giordano reviewed that staff had mailed postcards to 21,000 and 10,000 flyers to school students, an ad was placed in the newspaper and information was on cable Channel 15, so was the evening well attended? Mr. Lawson replied, no and most who attended had a vested interest. Attendees believed these meetings were staff driven, Council had certain opinions, and wanted unbiased information.

Vice Mayor Gomez inquired why 24 programs were on the list. Mr. Lawson replied that 24 were what staff came up with, while other programs require matching funds or grants. He had received criticism about what was on the list. Mr. Gomez quizzed the audience at this point, asking if people in the audience this night were representing particular programs (and many were). The Vice Mayor said it was the first time to hold these kinds of meetings and some of it could have been done differently.

Vice Mayor Gomez then announced a memo he proposed with Mr. Livengood that would be presented at another Council meeting. The memo provided suggestions regarding the City budget deficit, a proposal by cutting some soon vacant positions to save \$900,000 in the new FY budget.

Councilmember Livengood noted that the Council had the right idea, had never done this before – gone out into the community. He reminded residents that this was not the end of the budget process, and on Tuesday, May 9 at 6:00 pm would be the annual budget hearing. The City was in a budget cutting mode right now and they had already cut public safety in this City with all the vacant positions, even in the number one priority area. People's opinions should be heard, he felt. Mr. Livengood stated his opinion that city employees were not overpaid, he wanted the best employees and did not want workers to leave and go work elsewhere if salary was cut.

He continued, by pointing out that 80 positions were vacated or not filled or cut out of the next budget, that employees continued to perform the same service as four years ago. Programs were people, and employees have responsibilities (at home with families, etc.) He thanked all the residents who took the time to come out, to voice opinions, and vote with green dots.

Mayor Esteves asked how much money was represented by the total of all the 24 programs? Ms. Karlen responded, \$4.3 million (net). The Mayor also asked about the allowance for salary increases in the proposed budget. Ms. Karlen responded, \$1.6 million (approximately a 3% increase).

Mayor Esteves thanked everyone who came to the meetings. He really listened, and heard the majority of people he talked to had a concern for excessive salaries and felt this was a major, major hurdle. He wanted agendized that there would be a freeze in salary and benefits for all City employees. He was not in favor of cutting any positions. The Mayor stated that salaries were well and above neighboring cities, and he was concerned about future financial obligations. He said to take out the proposed increase on the employee salaries and termed it an “embarrassment” that the City pays too much in salary in Milpitas.

The Mayor called on those who wished to speak next.

Public Speakers:

Danielle Williams, age 10 years, requested Council to keep after school programs, and especially Rainbow Theatre. **Katie Williams**, supported Rainbow Theatre, after she had participated in seven shows. **Ms. Williams**, their mother, noted her daughters’ increased confidence, due to Rainbow Theatre. The staff was wonderful, and she offered support for Anne and Mei-Wan. She enjoyed the opportunity given at the public meetings last week. **Don Williams**, since 1989, thanked Council and spoke in support of Rainbow Theatre. He supported the DARE program for youth in school, also.

Eric Donkers, wanted to recognize Rainbow Theatre director Anne Kelly, who did a tremendous job with the kids, providing a chance for camaraderie in addition to acting. He had two kids in the Rainbow Theatre program now. He encouraged Council to notice that the Theatre was more than what was on stage.

Kathryn Gray, supported all the programs. She had kids who have participated in many of them. She knew the budget was difficult at this time and one of the messages was “excessive salaries.” Please look into the future to plan long term. Fiscal responsibility was to look at the entire budget, not just the programs.

Susan Turner, of Jupiter Drive, spoke about the line in front of the Milpitas Senior Center each morning, to do all the many activities at the Senior Center. She attended there five days a week, especially for the lunch meals. Ms. Turner wanted Council to continue its support for the Senior Center.

Barbara Ebright, requested Council to not cut any funds to daily senior nutrition program, including transit, and the caseworker available there too.

Linda Lambert, stated one reason her family moved here was for the schools and the recreation services. She did not understand how the list came up with, and agreed with the Mayor on salaries. She supported Stay and Play, and crossing guards, and to cut excessive salaries and benefits.

Gretchen, from San Jose, had children involved in Rainbow Theatre, which was a great program for all kids who participate. She was a resident of Berryessa in San Jose and would be sad to see Rainbow go.

A woman, spoke in support of children, and asked for Stay and Play to be kept, as well as the crossing guards and library open hours. Affordability of Stay and Play was what attracted so many families, she felt.

Anita Gangal, resident for more than 15 years, attended last Monday, stating that staff was ill prepared, with no answers to any questions, and was a meeting kids would be running. She heard the answer was “we don’t know” to questions. If you make decisions from that meeting, there was not a whole picture. Green stickers were put on “excessive salaries” at the bottom, at Russell School. Her request was to find some other way to get people’s opinions. On that Monday, it was pouring rain and so only active parents showed up, and she did not like the list of programs.

Alison McDonald, president of Sunnyhills Neighborhood Association, was disappointed in the process at the community meetings, even though she appreciated the effort by the City to try to garner input. Only options for cutting were pre-selected. SNA suggested raising fees to support programs. Her view was the list itself was pitting seniors against families.

A man, 17 year resident, said his not active but his wife was. His comment on the process, for the first time attempting to get input on budget process, he complimented the City. It could be hard to solicit input for anything substantial, and he heard that 200+ attended which was an excellent turnout. He stated the City could substantially increase the responses with an internet survey.

Bill Reisinger, thought the outreach was a good idea. He promised to see the Council on May 9, and he hoped the room was full to overflow. He said citizens would take the City back. He referred to the Mayor's comments. Mr. Reisinger stated he had lived here 27 years ago and things had changed. His view was that we don't need "platinum" people to take care of us (in reference to police services).

Chris Caldey, long time resident, presented some of the questions from Burnett School. What was participant to budget ratio? Why was it not presented tonight? Could you please describe what the programs were on the list? Why were other programs not on the list? When was the City Council going to address the outrageous City salaries and pensions? People who lived here were the most important assets, not the people who worked here.

Isaac Hughes, complained that the City Hall lobby doors were locked, and that was ridiculous and unacceptable. He stated residents do not need to ask Councilmembers anything. With this effort, the citizens were teaching their children to ask permission, while Councilmember were their public servants. He mentioned the pilgrims, as well as the fact that the Council has the privilege of serving the citizens. Mr. Hughes wished that Council would not go to public to balance the budget. Citizens should start telling the City Council what to do, and not the other way around.

Lata Shanka, mother of three, said her husband was out of work for two years and she cannot work or pick up heavy things. It's hard to put food on the table, and pay property taxes. Housing prices had gone up and if you were going to buy a new house, you would have to consider if you can afford it. So, the city has to be able to afford its services. What came out of asking for votes (for Mayor and Council) from the citizens? One day, all would get old, and young kids would take your places. Then, activities would be cut and she asked, do not use children for means of cutting.

Anne Kelly, director of Rainbow Theatre, employee and resident of Milpitas, thought asking for citizen input was a good idea, but not to make unintelligent choices. One night for input was not enough and maybe they should have had these meetings on the weekend, included the dollar amounts. She was honored by those who spoke tonight about her program. She pointed out she was not a high paid employee, and was willing to accept a freeze in pay, so that recreation – along with education – could build community.

Mayor Esteves had received letters from several citizens and passed those on to the City Clerk to file with the comments from tonight.

Vice Mayor Gomez made a motion to note receipt of staff report and thanked staff for their effort at the schools. He wanted to bring back a memo during the budget hearing with his (and Mr. Livengood's) suggestions for discussion at budget time. His proposals might permit maintaining Rainbow Theatre and other programs valued by residents.

Councilmember Polanski wanted other information reported back (e.g. the totals count),

Motion carried by a vote of:

AYES: 5

NOES: 0

RA4. Approval of Agenda and Consent Calendar

Motion: approve the agenda and consent calendar for the Agency

Removed Item No. RA 10 from Consent, and to the front of agenda. Also the Mayor/Chair abstained from voting on Item No. RA9.

Motion/Second: Agency/Councilmember Livengood / Agency/Councilmember Giordano

Motion carried by a vote of:

AYES: 5

NOES: 0

RA5. Progress Report on Library and Parking Garage

Mark Rogge gave an update on the Library and Garage projects. The work schedule and expenses were right on track, with 60% construction documents submitted, and 95 % documents on the East Parking Garage.

Some photographs of the inside of the historic building were displayed.

Motion: Note receipt of oral progress report on the design of the Library and Midtown East Parking Garage; approve Midtown East Parking Garage Plans and Specifications, Cost Estimate, and Pre-Qualification and bidding process and authorize staff to advertise for proposals for the parking garage.

Motion/Second: Vice Chair/Vice Mayor Gomez / Agency/Councilmember Polanski

Motion carried by a vote of:

AYES: 5

NOES: 0

Mr. Rogge provided an additional update on the North Main St. underground utilities work effort. He described some recent challenges that occurred due to the heavy spring rains that were handled in timely manner. Also, he reported that ground abatement and site preparation were moving along well.

Motion: note receipt of the oral report by staff

Motion/Second: Vice Chair/Vice Mayor Gomez / Agency/Councilmember Polanski

Motion carried by a vote of:

AYES: 5

NOES: 0

Mrs. Polanski requested at 11:03 PM if the Chamber of Commerce item could be heard next, followed by Item No. 16, and following that adjourn the meeting while deferring all other business items to the next Council meeting. Her colleagues agreed.

RA6. Draft 2006-2011 Capital Improvement Program (CIP) Report

This item was not heard at the meeting. It was continued to the next Council meeting.

RA7. Proposed 2005-2010 Redevelopment Implementation Plan

This item was not heard at the meeting. It was continued to the next Council meeting.

*** RA8.** Accept Community Center Sunshade Project

Adopted Resolution No. RA 251, granting initial acceptance of the Community Center Sunshade Project No. 8102, subject to the one-year warranty period and reduction of the faithful performance bond to \$4,107.50.

*** RA9.** Approving a Minor Addendum to North Main Street Development Environmental Impact Report

Adopted Resolution No. RA 252, Approving a Minor Addendum to the North Main Street Development Environmental Impact Report – Marylinn Drive Storm Drain Outfall

As noted under the Conflict of Interest announcement earlier, Mayor/Chair Esteves abstained from voting on this item.

Motion: Adopt Resolution No. RA 252

Motion carried by a vote of:

AYES: 4

NOES: 0

ABSTAIN: 1 (Esteves)

RA 10. Project Labor Agreement for the New Library, Project No. 8162

This topic was the first issue discussed on the joint RDA/City Council meeting agenda. CIP Manager Mark Rogge introduced the subject, with some background about Milpitas City Hall construction project, when there were no project labor agreements and labor stoppages affected construction work. City Council had expressed interest on past occasions, about implementing such agreements for the new library construction.

Mr. Rogge displayed the list of approximately a dozen various trades, which could potentially be involved with Labor Agreements for the library project. He pointed out that the City maintained the sole right for low bidder selection on work to be awarded.

Additionally, there was some specialized work that would be excluded from a PLA, for example, some security, furniture, and others. Mr. Rogge thanked those who spoke recently before the Council's Library Subcommittee meeting, and informed the Agency members that several of those speakers were present tonight.

Mayor/Chair Esteves invited speakers to the podium to be heard.

Public Speakers:

Kevin Dayton, government affairs director for the non-union trade group association in Pleasanton, stated that his members were opposed to Project Labor Agreements, as they do not necessarily ensure the right to peace on jobs. A PLA could increase costs on large construction projects. He believed the city wanted capable, responsible bidders. Usually, the general contractor will complete a job with a mix of union/non-union sub-contractors. And, the contractors then are not allowed to negotiate on the PLA. Mostly, his primary concern was that the PLA would reduce the number of bidders the city would get on a job such as the library.

Jose Garcia, executive director of a union, referred to comments from Mr. Dayton. He compared training centers for union halls vs. non-union tradesmen. He had worked for non-union companies, as well as for union. He said there was abuse of workers and minorities, by non-union contractors. A PLA was a good tool to oversee proper payment of wages. Also, he stated there were many PLAs in local counties, mostly via public agencies and all the workers and the governments were happy with the situation.

Joseph Dimingus, 405 Local carpenters, spoke from the heart. He had moved to Milpitas in 1954, been at the old City Hall, and went to public schools in town. He did not want to agree with idea that Milpitas would hire non-union people, as this was a union town going back to Ford Motor Co. A good life through the union work, and remember union labor built even the City Hall building, which he worked on this room on the carpentry.

Mike, San Jose resident, said he was active in politics in San Jose and other neighboring towns. What do a library and an apprenticeship have in common? Both involved training and investment of the next generation workforce in your community. Properly trained people were essential to success, he felt.

Neil Struthers, executive director of the Building Trades Council in Santa Clara County. He represented about 30,000+ construction workers and their families. He thanked the workers who came out to this meeting, and mentioned information he had sent the City Council. He mentioned a specific PLA done in San Francisco for a very large project in that city. There was a study by Peter Philips, of an analysis of districts with/without PLA, in stable environments. Ultimately, a lawsuit was filed on a guy who cheated his workers, against a PLA.

Mr. Struthers strongly urged Council/RDA to support the staff recommendation, to meet with the Building Trades Council and to pursue a PLA.

Councilmember Livengood spoke next, stating his strong support for PLAs, because you get labor peace and that's important. Spending \$40 million of taxpayers money for the library, so he believed everyone who works on the project must be paid prevailing wage and benefits. The only way to ensure that was by a PLA, and no compromise should be made on this. PLAs have been used successfully over the past four to five years in Santa Clara Valley, and they helped bring in on-time and under budget some significant projects. He hoped the City Council agreed.

Councilmember Giordano had reviewed material from both sides. She got a letter from the East Side Unified High School District in San Jose, from which she read an excerpt. That District had no regret in entering into a PLA, with no reduction in the bidders as predicted here. She would support a motion for a PLA.

Councilmember Polanski inquired how does one go about negotiating the PLA? Mr. Rogge would look at others as a benchmark, along with the goals suggested already. So, whatever step was recommended by Council/RDA tonight would be reviewed once approved by Council/RDA. She also asked about rain delays, during construction. Mr. Rogge replied that not much could be done. The issue was that trades that wait on work by other trades, could stop work sometimes. The PLA would be required to be signed off by each one of the trades involved in the construction project (at the library).

Vice Mayor Gomez announced he was supportive of a PLA, based on his professional work with two large cities, San Francisco and San Jose.

Mayor Esteves, asked staff, assuming there was no PLA, with regard to potential bidders, how many would be union or non-union contractors? Staff reply was "we don't know." Additionally, he asked if there was a PLA, would some contractors not bid? Staff replied yes. The Mayor said when the City entered into contracts, it always supported prevailing wage currently, and staff concurred. The Mayor asked with the timely and successful completion of a project, how does the PLA help that? Mr. Rogge replied that the PLA is an agreement with the labor groups, where you have all on same page, hopeful for better communication, and an agreement to get the work done, so timeliness could be achieved. Accountability would be in the contract per the requirements, staff replied to the Mayor in response to his inquiry about completion of a project.

Mayor Esteves stated he was not comfortable with a PLA, did not want to subject contractors to a PLA, had concerns about and for the number of bidders, and announced that he would not support the PLA tonight.

Vice Mayor Gomez wanted to know the answer regarding the percentage union versus non-union workers in the Bay Area (asked earlier by the Mayor). Mr. Struthers of BTC responded that about 85% of contractors in the Bay Area were probably union, with 15% non-union (though it would be very different in other parts of the country).

Councilmember Polanski had comments about the process, and would want opportunity for all to bid fairly on construction projects in the City. She wanted to move forward and supported the idea of a PLA for major projects.

Motion: authorize staff to negotiate a Project Labor Agreement (PLA) for the construction of the new Milpitas Library, Project No. 8162

Motion/Second: Vice Chair/Vice Mayor Gomez/ Agency/Councilmember Livengood

Motion carried by a vote of: AYES: 4
NOES: 1 (Esteves)

- *RA 11.** Lease Agreement With Cingular Wireless Authorized City Manager as Executive Director of the Redevelopment Agency to execute a lease agreement with Cingular Wireless, subject to approval as to form by the City Attorney.
- *RA 12.** Contract Change Order for Project No. 8153 For the North Main Street Utilities Project, Weller Lane to Carlo Street Underground Utility District No. 5, Project No. 8153, authorized staff to approve a contract change order, in the amount not to exceed \$95,000 to D'arcy & Harty Construction Inc.
- *RA 13.** Award Construction Contract to All Seasons Roofing Rejected low bid (for technical reason) and awarded Construction Contract to All Seasons Roofing, in the amount of \$94,361, for Pump Station Improvements, Project No. 8106 and Oak Creek Pump Station Improvements, Project No. 8140.
- RA 14. Adjournment** The agency meeting was adjourned by the Chair at 11:03 PM.

REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

- 8.** Request From Chamber of Commerce to Hold Forum on Measure A at City Hall Councilmember Polanski introduced this item, referring to the letter of March 23 that the Chamber executive director sent to the City Council. The Chamber of Commerce would like the use of the Council Chambers to host a public forum, to educate residents about Measure A on the June 6 ballot, regarding transportation issues county-wide.

The Chamber would like any fees waived, while it would agree to pay appropriate fees for broadcasting the meeting over cable Channel 15.

Motion: approve use of Council Chambers by Chamber of Commerce on May 18, 2006

Motion/Second: Councilmember Polanski/Vice Mayor Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

NEW BUSINESS

- 10.** Development System Online Permitting Recommendations This item was not heard at the meeting. It was continued to the next Council meeting.

ORDINANCE

- 14.** Introduce Ordinance 48.17 Amending Title V, Chapter 200, Section 3.20 of the Municipal Code - Solid Waste Management This item was not heard at the meeting. It was continued to the next Council meeting.

BIDS AND CONTRACTS

- 16.** Award Construction Contract and Approve Budget Appropriation: South Park Victoria Drive Pavement Rehabilitation For Project No. 4225, City Engineer Greg Armendariz explained that the bid opening occurred last Friday (not on time to be reported with the agenda for tonight). Therefore, he announced verbally the results, and requested that the City Council award the contract to: O'Grady Paving in the amount of \$1,369,596, as the low bidder.

Motion: Awarded the bid for Project No. 4225, So. Park Victoria Drive Pavement Rehabilitation to O'Grady Paving in the amount of \$1,369,596, and approved a budget appropriation in the amount of \$1,200,000 for the project.

Motion/Second: Councilmember Livengood/Councilmember Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

ADJOURNMENT

The meeting was adjourned at 11:06 PM.

The foregoing minutes were approved by the Milpitas City Council as submitted on May 2, 2006.

Mary Lavelle
City Clerk